



STATE OF WASHINGTON

PUBLIC DISCLOSURE COMMISSION

711 Capitol Way Rm 206, PO Box 40908 • Olympia, Washington 98504-0908 • (360) 753-1111 • FAX (360) 753-1112
Toll Free 1-877-601-2828 • E-mail: pdc@pdc.wa.gov • Website: www.pdc.wa.gov

BEFORE THE PUBLIC DISCLOSURE COMMISSION
OF THE STATE OF WASHINGTON

IN RE COMPLIANCE
WITH RCW 42.17

Nick Federici

Respondent

) PDC CASE NO: #06-301

)
) REPORT OF INVESTIGATION

I.

Background

- 1.1 Public Disclosure Commission (PDC) records indicate that Nick Federici has been a registered lobbyist filing reports with the PDC since 1997. In 2004, he was a registered lobbyist for nine clients, and filed reports disclosing his lobbying activities.
- 1.2 On December 28, 2005, Vicki Rippie, PDC Executive Director filed a staff generated complaint alleging that Mr. Federici failed to timely register as a lobbyist for clients that contracted for his services during 2005, and that he failed to timely disclose his compensation and other lobbying expenses. **See Exhibit #1.**

II.

Findings

- 2.1 The complaint alleged that Nick Federici violated the following:
 - RCW 42.17.150 by failing to timely file Lobbyist Registration Statements (PDC Form L-1) for nine of the ten clients for which he was employed to lobby on behalf of during 2005; and
 - RCW 42.17.170 by failing to timely file nine Monthly Lobbyist Expense Reports (PDC Form L-2) disclosing compensation and other reportable lobbyist expenses.



Failure to timely file Lobbyist Registration Statements (PDC Form L-1) as required in RCW 42.17.150

- 2.2 All persons that are engaged in lobbying, that have entered into an agreement to lobby, or a person having the expectation of lobbying are required to complete a Lobbyist Registration Statement (PDC Form L-1). The lobbyist must file the L-1 report prior to lobbying or within 30 days of being employed as a lobbyist, whichever occurs first.
- 2.3 RCW 42.17.150(4) states that a lobbyist must file a new L-1 "on the second Monday in January of each odd-numbered year, and failure to do so shall terminate his registration."
- 2.4 As a registered lobbyist in 2004, Mr. Federici was required to re-register and file new L-1 registration statements for each continuing client and any new clients prior to conducting lobbying activities. On November 15, 2004, PDC staff sent an email reminder to all lobbyists, including Mr. Federici, informing them about the requirement to re-register for the 2005-2006 Legislative Session by January 10, 2005.
- 2.5 As of January 10, 2005, Mr. Federici had registered and filed an L-1 for only one employer, ARNP's United, for which he timely filed an L-1 on November 17, 2004.
- 2.6 Mr. Federici filed three L-2 reports on April 5, 2005, disclosing nine lobbyist employers that paid him compensation to lobby on their behalf in January, February and March of 2005. The lobbyist employers that contracted with Mr. Federici and paid him monthly compensation to lobby on their behalf included the following:

<u>Lobbyist Employer</u>	<u>Compensation during session</u>
• American Lung Association	\$ 4,000 per month;
• CHOICE Regional Health Network	\$ 500 per month;
• Fairfax Hospital	\$ 2,000 per month;
• Home Care Coalition	\$ 1,000 per month;
• Midwives Association of Washington	\$ 1,000 per month;
• National Association of Social Workers ¹	\$ 1,100 per month;
• Respiratory Care Society of Washington	\$ 750 per month;
• Washington Low-income Housing Alliance	\$ 3,200 per month;
• Washington Toxics Coalition	<u>\$ 1,250 per month</u>
Total	\$14,800

¹ Mr. Federici intended to suspend the registration for the National Association of Social Workers for July of 2005, and began lobbying again in August of 2005, despite the fact the L-1 was not filed until 10/20/05.

- 2.7 PDC staff contacted Mr. Federici on June 28, 2005, and left a telephone message regarding the fact that he was missing nine L-1 report's. Mr. Federici met with PDC staff on September 27, 2005, at which time he was informed again about the missing lobbyist registrations and requested to file them immediately.
- 2.8 On October 20, 2005, Mr. Federici filed eight of the nine missing L-1 report's for lobbyist employers that he had been lobbying on behalf of and receiving compensation for lobbying services. **See Exhibit #2.**
- 2.9 The eight L-1 lobbyist registrations were filed 283 days late, which was based on RCW 42.17.150(4) requiring new L-1 reports to be filed by the second Monday in January of each odd-numbered year or no later than January 10, 2005. The L-1 reports were filed for the American Lung Association, CHOICE Regional Health Network, Home Care Coalition, Midwives Association of Washington, National Association of Social Workers, Respiratory Care Society of Washington, Washington Low-income Housing Alliance, and the Washington Toxics Coalition.
- 2.10 The ninth and final missing L-1 was filed on November 10, 2005, on behalf of Fairfax Hospital. **See Exhibit #3.** That L-1 report was filed 311 days late.
- 2.11 On January 9, 2006, Mr. Federici provided a letter in response to the PDC complaint. **See Exhibit #4.** Mr. Federici stated the following:

"...I neglected to re-file the required L-1 forms at the beginning of 2005 because I foolishly forgot that this was required at the beginning of each odd-numbered year. I believe that eight of the nine forms that I failed to file on time were for continuing clients for whom my terms of contract had not changed since previously filing the L-1 for them, and so the PDC and the public were not in fact deprived of any information regarding my contractual status with those clients. The error on the remaining client was simply an oversight on my part. I cannot stress strongly enough at no time was my lack of filing willful or intentional, and I have never deliberately sought to withhold information from the Public Disclosure Commission or the public."

Failure to timely file Monthly Lobbyist Expense Reports (PDC Form L-2) as required in RCW 42.17.170

- 2.12 Lobbyists are required to file Monthly Lobbyist Expense Reports (PDC Form L-2) disclosing a) compensation earned for time spent lobbying; b) personal

expenses reimbursed by the employer; c) contributions made by a lobbyist employer to candidates, political committees and political party organizations that are transmitted or delivered by the lobbyist; d) entertainment expenses (including the lobbyist's portion and others in attendance) involving state legislators, legislative staff, and other state officials; and e) other expenses directly or indirectly related to lobbying activities.

- 2.13 Mr. Federici failed to timely file a monthly L-2 report for lobbying activities undertaken during January of 2005. PDC staff sent Mr. Federici an L-2 warning letter on March 8, 2005, reminding him that an L-2 report was required to be filed for January no later than February 15, 2005. The warning letter included the "Brief Enforcement Penalty Schedule" adopted by the Commission for lobbyists in WAC 390-37-170 and informed Mr. Federici about the requirement to timely file all future L-2 reports.
- 2.14 On April 5, 2005, Mr. Federici filed L-2 reports for January, February and March of 2005. The January L-2 report was filed 27 days after receiving the L-2 warning letter. The February L-2 report submitted by Mr. Federici was filed in time to avoid an enforcement hearing.
- 2.15 The employers and compensation earned by Mr. Federici for each month for lobbying activities during January, February and March included the following:
- | | |
|--|---------------------------|
| • ARNP's United | \$ 2,500 per month; |
| • American Lung Association of WA | \$ 4,000 per month; |
| • CHOICE Regional Health Network | \$ 500 per month; |
| • Fairfax Hospital | \$ 2,000 per month; |
| • Home Care Coalition | \$ 1,000 per month; |
| • Midwives Association of Washington | \$ 1,000 per month; |
| • National Association of Social Workers | \$ 1,100 per month; |
| • Respiratory Care Society of Washington | \$ 750 per month; |
| • Washington Low-income Housing Alliance | \$ 3,200 per month; |
| • Washington Toxics Coalition | <u>\$ 1,250 per month</u> |
| Total | \$17,300 per month |
- 2.16 Mr. Federici filed monthly L-2 reports for January-December 2005, listing ten lobbyist employers. However, nine of the required twelve L-2 reports filed by Mr. Federici for lobbying activities undertaken in 2005 were filed between 5-49 days late. **See Exhibit #5.** Those activities are summarized in the chart below as follows:

Month	L-2 Report Due Date	L-2 Report Date Filed	Total Compensation	Other Expenses	Days Late
January	February 15, 2005	April 5, 2005	\$ 17,300	\$ 2,531	49
February	March 15, 2005	April 5, 2005	\$ 17,300	\$ 2,568	21
April	May 15, 2005	June 20, 2005	\$ 17,300	\$ 2,830	35
May	June 15, 2005	June 20, 2005	\$ 10,900	\$ 2,571	5
June	July 15, 2005	August 10, 2005	\$ 7,400	\$ 2,530	26
August	September 15, 2005	September 27, 2005	\$ 7,400	\$ 2,236	12
September	October 15, 2005	December 2, 2005	\$ 9,400	\$ 2,130	46
October	November 15, 2005	December 2, 2005	\$ 10,150	\$ 2,052	17
November	December 15, 2005	January 10, 2005	\$ 15,400	\$ 800	26
Total			\$ 112,550	\$20,248	5- 49

2.17 A total of seven of the L-2 reports filed by Mr. Federici were more than 15 days late. Those seven L-2 reports were filed between 17-49 days late, and disclosed total lobbying expenses of \$109,691 that included total compensation of \$94,250, and \$15,441 in other expenses. Mr. Federici timely filed L-2 reports during calendar year 2005 for the months of March, July and December.

2.18 A brief narrative of the lobbying activities undertaken in 2005 by Mr. Federici that were disclosed on the nine late filed L-2 reports included the following:

- The January L-2 report was filed 49 days late by Mr. Federici and disclosed total compensation of \$17,300. Due to a clerical error on the part of Mr. Federici, the L-2 report incorrectly listed \$18,300 in total compensation. The report was amended on January 10, 2006, disclosing the corrected amount. The report disclosed \$2,531 in other expenses that included a \$2,500 payment to Alia Griffing from Mr. Federici for other lobbying expenses, a \$31 personal contribution to the Washington State Democratic Central Committee, and four-pages of the legislation and subject matter supported or opposed by each client.
- The February L-2 report was filed 21 days late by Mr. Federici and disclosed total compensation of \$17,300, and included the same clerical error in listing \$18,300 in total compensation. Mr. Federici also amended that report on January 10, 2006, to reflect the corrected amount. The February report disclosed \$2,568 in other expenses that included a \$2,500 payment to Alia Griffing from Mr. Federici for other lobbying expenses, two personal contributions to the Washington State Democratic Central Committee (WSDCC) totaling \$68, and four-pages of the legislation and subject matter supported or opposed by each client.

- The April L-2 report was filed 35 days late by Mr. Federici and disclosed total compensation of \$17,300, and listed \$2,830 in other expenses that included a \$2,500 payment to Alia Griffing from Mr. Federici for other lobbying expenses, and four personal contributions totaling \$330.
- The May L-2 report was filed 5 days late by Mr. Federici and disclosed total compensation of \$10,900, and listed \$2,571 in other expenses that included a \$2,000 in-kind contribution from the American Lung Association of WA to Initiative 901 (I-901), and four personal contributions from Mr. Federici totaling \$571. The L-2 report terminated Mr. Federici's employment with CHOICE Regional Health Network, ARNP's, National Association of Social Workers and Fairfax Hospital effective June 1, 2005.
- The June L-2 report was filed 26 days late by Mr. Federici and disclosed total compensation of \$7,400, and listed \$2,530 in other expenses that included a \$2,000 in-kind contribution from the American Lung Association of WA to I-901, a \$500 personal contribution to I-901, and another \$30 personal contribution.
- The August L-2 report was filed 12 days late by Mr. Federici and disclosed total compensation of \$7,400, and listed \$2,236 in other expenses that included a \$2,000 in-kind contribution from the American Lung Association of WA to I-901, a \$31 personal contribution to WSDCC, and \$205 in entertainment expenses with a reference to see the L-2 report of another registered lobbyist, Becky Bogard, for details.
- The September L-2 report was filed 46 days late by Mr. Federici and disclosed total compensation of \$9,400, and listed \$2,130 in other expenses that included a \$2,000 in-kind contribution from the American Lung Association of WA to I-901, and two personal contributions totaling \$130.
- The October L-2 report was filed 17 days late by Mr. Federici and disclosed total compensation of \$10,150, and listed \$2,052 in other expenses that included a \$2,000 in-kind contribution from the American Lung Association of WA to I-901, and three personal contributions totaling \$52.
- The November L-2 report was filed 26 days late by Mr. Federici and disclosed total compensation of \$15,400, and listed \$800 in other expenses that included a \$5000 in-kind contribution from the American Lung Association of WA to I-901, and two personal contributions from Mr. Federici totaling \$300.

- 2.19 Mr. Federici timely filed L-2 reports for March, July and December of 2005.
- 2.20 Mr. Federici stated the following in his response regarding the lack of timeliness in filing his L-2 reports:

“Regarding the second complaint, I can only profess that I am often forgetful and inattentive to procedural and recordkeeping details. I honestly have no better excuse than that, other than to earnestly underscore my statement above that at no time was my lack of filing willful or intentional, and I have never deliberately sought to withhold information from the Public Disclosure Commission or the public....”

- 2.21 In all matters relating to this investigation, Mr. Federici has fully cooperated.

III.

Previous Filing History

- 3.1 Based on a review conducted by PDC staff, Mr. Federici, as a registered lobbyist for multiple clients, was sent the following correspondence from the PDC related to compliance of the lobbying statutes and regulations:
- **October 24, 2001:** Completed a Statement of Understanding and paid a \$100 penalty for failing to timely file the L-3 report for activities undertaken in calendar year 2000 as a Lobbyist Employer;
 - **April 8, 2003:** L-2 warning letter for failing to timely file the February 2003 L-2 report;
 - **February 16, 2004:** Completed a Statement of Understanding and paid a \$100 penalty for failing to timely file the December 2003 L-2 report;
 - **June 7, 2004:** L-2 warning letter for failing to timely file the April 2004 L-2 report;
 - **August 6, 2004:** L-2 warning letter for failing to timely file the June 2004 L-2 report;
 - **March 8, 2005:** L-2 warning letter for failing to timely file the January 2005 L-2 report.

IV.

Scope

- 4.1 PDC staff reviewed the Lobbyist Registration Statements (PDC Form L-1) and Monthly Lobbyist Expense Reports (PDC Form L-2) filed by Nick Federici going back to calendar year 2000.
- 4.2 PDC staff reviewed the Crystal Reports produced and generated from the Lobbyist Database for Nick Federici.
- 4.3 PDC staff reviewed the annual Lobbyist Employer Report (PDC Form L-3) filed by lobbyist employers that had retained the services of Nick Federici to lobby on their behalf.
- 4.4 PDC staff reviewed the response from Nick Federici submitted on January 9, 2006, in response to the allegations listed in the PDC staff generated complaint filed against him.

IV.

LAW

- 5.1 **RCW 42.17.150** states in part the following:

“(1) Before doing any lobbying, or within thirty days after being employed as a lobbyist, whichever occurs first, a lobbyist shall register by filing with the commission a lobbyist registration statement, in such detail as the commission shall prescribe, showing:

- (a) His name, permanent business address, and any temporary residential and business addresses in Thurston county during the legislative session;
- (b) The name, address and occupation or business of the lobbyist's employer;
- (c) The duration of his employment;
- (d) His compensation for lobbying; how much he is to be paid for expenses, and what expenses are to be reimbursed;
- (e) Whether the person from whom he receives said compensation employs him solely as a lobbyist or whether he is a regular employee performing services for his employer which include but are not limited to the influencing of legislation;

- (f) The general subject or subjects of his legislative interest;
 - (g) A written authorization from each of the lobbyist's employers confirming such employment;
 - (h) The name and address of the person who will have custody of the accounts, bills, receipts, books, papers, and documents required to be kept under this chapter."
- (4) Each lobbyist who has registered shall file a new registration statement, revised as appropriate, on the second Monday in January of each odd-numbered year, and failure to do so shall terminate his registration.

5.2 **RCW 42.17.170** states in part the following:

"(1) Any lobbyist registered under RCW 42.17.150 and any person who lobbies shall file with the commission periodic reports of his or her activities signed by the lobbyist. The reports shall be made in the form and manner prescribed by the commission. They shall be due monthly and shall be filed within fifteen days after the last day of the calendar month covered by the report.

(2) Each such monthly periodic report shall contain:

(a) The totals of all expenditures for lobbying activities made or incurred by such lobbyist or on behalf of such lobbyist by the lobbyist's employer during the period covered by the report. Such totals for lobbying activities shall be segregated according to financial category, including compensation; food and refreshments; living accommodations; advertising; travel; contributions; and other expenses or services. Each individual expenditure of more than twenty-five dollars for entertainment shall be identified by date, place, amount, and the names of all persons in the group partaking in or of such entertainment including any portion thereof attributable to the lobbyist's participation therein, and shall include amounts actually expended on each person where calculable, or allocating any portion of the expenditure to individual participants. Notwithstanding the foregoing, lobbyists are not required to report the following: (i) Unreimbursed personal living and travel expenses not incurred directly for lobbying; (ii) Any expenses incurred for his or her own living accommodations; (iii) Any expenses incurred for his or her own travel to and from hearings of the legislature; (iv) Any expenses incurred for telephone, and any office expenses, including rent and salaries and wages paid for staff and secretarial assistance.

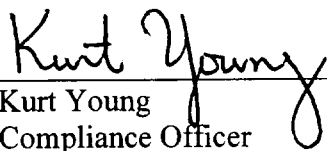
(b) In the case of a lobbyist employed by more than one employer, the proportionate amount of such expenditures in each category incurred on behalf of each of his employers.

(c) An itemized listing of each such expenditure, whether contributed by the lobbyist personally or delivered or transmitted by the lobbyist, in the nature of a contribution of money or of tangible or intangible personal property to any candidate, elected official, or officer or employee of any agency, or any political committee supporting or opposing any ballot proposition, or for or on behalf of any candidate, elected official, or officer or employee of any agency, or any political committee supporting or opposing any ballot proposition. All contributions made to, or for the benefit of, any candidate, elected official, or officer or employee of any agency, or any political committee supporting or opposing any ballot proposition shall be identified by date, amount, and the name of the candidate, elected official, or officer or employee of any agency, or any political committee supporting or opposing any ballot proposition receiving, or to be benefited by each such contribution.

(d) The subject matter of proposed legislation or other legislative activity or rule-making under chapter 34.05 RCW, the state Administrative Procedure Act, and the state agency considering the same, which the lobbyist has been engaged in supporting or opposing during the reporting period, unless exempt under RCW 42.17.160(2).

(e) Such other information relevant to lobbying activities as the commission shall by rule prescribe. Information supporting such activities as are required to be reported is subject to audit by the commission."

Respectfully submitted this 12th day of January, 2006.


Kurt Young
Compliance Officer

List of Exhibits

- | | |
|-------------------|---|
| Exhibit #1 | PDC staff generated complaint filed against Nick Federici. |
| Exhibit #2 | Eight L-1 report's filed on October 20, 2005, by Nick Federici on behalf of eight lobbyist employers. |
| Exhibit #3 | L-1 report filed on November 10, 2005, by Nick Federici on behalf of Fairfax Hospital. |
| Exhibit #4 | January 9, 2006, response to the PDC complaint submitted by Mr. Federici. |
| Exhibit #5 | Nine L-2 reports filed by Mr. Federici for lobbying activities undertaken in 2005 for January, February, April, May, June, August, September, October and November. |